

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING
IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-05-4543.M5

MDR Tracking Number: M5-05-0434-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 10-01-04.

The IRO reviewed therapeutic procedure aquatic therapy, office visit, therapeutic activities one on one patient contact use of dynamic activities, therapeutic procedure range of motion rendered from 05-14-04 through 08-11-04 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 01-13-05, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

Review of CPT code 97530 date of service 06-02-04 revealed that neither party submitted an EOB. Per Rule 133.307(e)(2)(B) the requestor did not provide convincing evidence of carrier receipt of the providers request for an EOB. No reimbursement recommended.

This Findings Decision is hereby issued this 31st day of January 2005.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the Medicare program reimbursement methodologies effective August 1, 2003 per Commission Rule 134.202(c), plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 05-14-04 through 08-11-04 in this dispute.

This Order is hereby issued this 31st day of January 2005.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/dlh
Enclosure: IRO Decision

Envoy Medical Systems, LP
1726 Cricket Hollow
Austin, Texas 78758
Fax 512/491-5145

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION

January 11, 2005

Re: IRO Case # M5-05-0434

Texas Worker's Compensation Commission:

Envoy Medical Systems, LP (Envoy) has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule 133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to Envoy for an independent review. Envoy has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, Envoy received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board Certified in Physical Medicine and Rehabilitation, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to Envoy for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the Envoy reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of disputed service
2. Explanation of benefits
3. Clinical notes Dr. Garcia
4. Operative reports ___, 2/17/04
5. FCE 8/17/04
6. Physical therapy progress notes

History

The patient fell off a garbage truck on ___ and sustained closed displaced fractures of the right tibial plateau and left AC joint and clavicle fractures. The patient underwent an open reduction and internal fixation of his tibial plateau fractures on ___, followed a few days later by an open decompression of his left shoulder with resection of the distal end of the clavicle and removal of bone fragments. Following surgery, he was initially non-weight bearing. Eventually he was allowed to weight bear as tolerated. The patient underwent approximately six months of physical therapy after his surgeries. An FCE was performed at the conclusion of his physical therapy, and a chronic pain management program was recommended.

Requested Service(s)

Therapeutic procedure aquatic therapy, office visit, therapeutic activities one on one patient contact use of dynamic activities, therapeutic procedure range of motion 5/14/04 – 8/11/04

Decision

I disagree with the carrier's decision to deny the requested services.

Rationale

The patient suffered severe injuries when he fell off a garbage truck. These included fractures in the leg and shoulder that required surgical repair. He was non-weight bearing for a time while his tibial plateau fracture healed. The patient's physical therapy records document compliance and benefit to the patient. The records show continued progression in his pain and functional status. The patient continued to follow up with his orthopedic surgeon, and in June 2004 the patient was recommended for an additional two months of physical therapy. Physical therapists' evaluations document deficits in strength and endurance, but also continued progress to the point where he was functional with his self care and ADLs. The physical therapy treatment was appropriate and medically necessary because of the severe injuries that the patient suffered.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

Daniel Y. Chin, for GP